

**DISTRICT OF COLUMBIA**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
ONE JUDICIARY SQUARE  
441 4<sup>th</sup> Street, NW  
Washington, DC 20001-2714  
TEL: (202) 442-9094  
FAX: (202) 442-4789

DEWITT MCCORMICK  
Petitioner,

v.

DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL  
CHILD SUPPORT SERVICES DIVISION  
Respondent.

Case No.: 2011-OAG-00017  
IV-D No. 102267\*2

---

**FINAL ORDER**

**I. Summary of this Final Order**

This Final Order dismisses this case based on Petitioner's failure to request a hearing timely.

**II. Procedural History**

On November 16, 2011, Petitioner requested a hearing to appeal an Order of Condemnation issued by the Office of the Attorney General for the District of Columbia, Child Support Services Division (CSSD). Consequently, on November 18, 2011, this administrative court issued a Hearing Notice and Order, scheduling a hearing for December 20, 2011.

On December 20, 2011, the hearing was convened as scheduled. Petitioner appeared and represented himself. Nicole Reece, Esq., Assistant Attorney General, appeared on behalf of CSSD. At the onset of the hearing, the parties requested that the hearing be continued to allow

CSSD time in which to review documents Petitioner had provided it that day. With the agreement of the parties, I continued the hearing to January 23, 2012.

On January 23, 2012, the evidentiary hearing proceeded as scheduled. Petitioner appeared and represented himself. Nicole Reece, Esq., Assistant Attorney General, appeared again on behalf of CSSD. At the conclusion of the evidentiary hearing, I asked the parties to explain how OAH has jurisdiction to hear this case when Petitioner admittedly did not timely file a request for a hearing. CSSD stated that it did not oppose Petitioner's request as untimely because Petitioner's delay was caused by his confusion about where to file his request.

Because this case must be dismissed for lack of jurisdiction based on the untimeliness of Petitioner's request for a hearing, the following Findings of Fact and Conclusions of Law are limited to those related to the untimely filing.

### **III. Findings of Fact**

On September 21, 2011, CSSD issued a Notice of Seizure and Administrative Judgment of Condemnation to Petitioner, informing him that CSSD had seized \$26,840.49 held in his financial institution to pay toward his delinquent child support obligation. The Notice of Seizure informed Petitioner that he could request a hearing at OAH within 30 calendar days.

At some point after learning of the Notice of Seizure, Petitioner filed a Motion to Modify Child Support Order in the Family Court of Superior Court of the District of Columbia. In his Motion to Modify, Petitioner requested a hearing on the Notice of Seizure and asserted that he had assumed custody of his children in November 2000. Petitioner's Motion to Modify was heard in Superior Court on November 16, 2011. The Superior Court magistrate judge denied

Petitioner's Motion to Modify with respect to the Administrative Judgment of Condemnation, based on its lack of jurisdiction to hear administrative hearing matters, and directed Petitioner to the Office of Administrative Hearings.

On that same day, November 16, 2011, after he had appeared in Superior Court, Petitioner filed a request for hearing at OAH to contest the Administrative Judgment of Condemnation. Petitioner attributes "bad information" he received over the telephone from CSSD as the reason for late filing his hearing request at OAH.

#### **IV. Conclusions of Law**

CSSD has authority to enforce child support orders by attaching and seizing assets owned by obligors and held in financial institutions without obtaining a court order. D.C. Official Code § 46-226.03. CSSD is responsible for implementing this enforcement authority. 29 DCMR 8101.2. It may seize funds in financial institutions when, among other things, the judgment support obligation is 60 days past due. 29 DCMR 8103.1.

After CSSD issues an Order of Condemnation, a party whose funds have been seized may ask for a hearing at OAH to review CSSD's action. 29 DCMR 8103.9, 8104. The request for a hearing must be received by OAH within 30 calendar days after the date the Order of Condemnation is sent to the party whose funds have been seized. 29 DCMR 8104.3.

Petitioner's request for a hearing to challenge the Order of Condemnation must be denied and this case dismissed. This administrative court does not have jurisdiction to hear the case because Petitioner's appeal was filed out of time. CSSD sent Petitioner the Notice of Seizure and Order of Condemnation on September 21, 2011, by first class mail to his home address.

Petitioner did not file his appeal with OAH until November 16, 2011. The Notice of Seizure clearly informed Petitioner that he had 30 days in which to file an appeal with OAH. The Notice of Seizure even specified the date by which Petitioner was to file his appeal. Petitioner has not asserted that he received CSSD's decision untimely. Rather, Petitioner admittedly filed his appeal with OAH late. In view of the clear and specific written instructions set out in the Notice of Seizure that directed Petitioner to file a request for a hearing at OAH within 30 days, and with only a vague suggestion of "bad information" he received by telephone, the reason Petitioner has provided for his late filing is insufficient. By law, a failure to meet the legal deadline for filing an appeal deprives this administrative court of jurisdiction to hear the appeal. *See Zollicoffer v. District of Columbia Pub. Sch.*, 735 A.2d 944, 945-946 (D.C. 1999) (noting that failure to comply with filing deadlines in appeals with administrative agencies, as with courts, divests the agency of jurisdiction to consider the appeal). Further, a filing requirement is a mandatory jurisdictional requirement that parties cannot waive either through their conduct or consent. *See Customer Parking, Inc. v. District of Columbia*, 562 A.2d 651, 654 (D.C. 1989); *Zollicoffer*, 735 A.2d at 945-946; and, *Kamerow v. D.C. Rental Hous. Comm'n*, 891 A.2d 253, 257 (D.C. 2006). Accordingly, this case must be dismissed for lack of jurisdiction.

Even if OAH had jurisdiction to hear Petitioner's appeal of the Order of Condemnation, it is unlikely that Petitioner would prevail. Petitioner admittedly did not pay court ordered child support from approximately September 1998 through May 2001, and then only intermittently from May 2001 through September 2003. During that time, the child support order that gave rise to the arrears that are the subject of the Order of Condemnation here was in effect. In appealing the Order of Condemnation, Petitioner, in actuality, seeks modification of the underlying child support order by asking that the accrued arrears be forgiven based upon a letter of forgiveness

he obtained from the child support obligee (the children's mother) on November 6, 2000<sup>1</sup>, Petitioner's Exhibit (PX) 100, and his claim that the children were living with him or emancipated during those time frames. Petitioner admittedly did not seek modification of the child support order in 2000, nor at any other time surrounding those time frames. Because OAH is not authorized to modify the underlying support order or any underlying money judgment, 29 DCMR 8103.6, Petitioner, in all likelihood, would not prevail were his appeal to be decided on the merits.

## **V. Conclusion**

For the foregoing reasons, OAH does not have jurisdiction to hear Petitioner's appeal of the Order of Condemnation and this case is dismissed.

## **VI. Order**

Therefore, it is, this 30th day of January 2012:

**ORDERED**, that based on Petitioner's failure to timely request a hearing with the Office of Administrative Hearings, his request for a hearing must be denied and this case is therefore **DISMISSED FOR LACK OF JURISDICTION**; and it is further

---

<sup>1</sup> Petitioner also submitted a letter dated March 5, 2010 from the children's mother that states she would not forgive the child support arrears. PX 110.

**ORDERED**, that the reconsideration and appeal rights of any party aggrieved by this Order are stated below.

Dated: January 30, 2012

/s/  
Elizabeth Figueroa  
Administrative Law Judge



